

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**PATRICK THELEN, #16842-039,**

**Petitioner,**

**vs.**

**CIVIL NO. 11-cv-1044 DRH**

**JAMES CROSS,**

**Respondent.**

**MEMORANDUM AND ORDER**

**HERNDON, Chief Judge:**

On April 12, 2012, petitioner moved this Court for voluntary dismissal of the action pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure. Voluntary withdrawal of his claim is plaintiff's right, and, accordingly, this action is **DISMISSED WITHOUT PREJUDICE**. Plaintiff is **INSTRUCTED** that, although he has dismissed his claim, he must still pay the filing fee for this case. Therefore, the filing fee he has previously paid in this matter shall not be returned. See 28 U.S.C. § 1915(b)(1), (e)(2); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998) (A prisoner incurs the obligation to pay the filing fee for a lawsuit when the suit is filed, and the obligation continues regardless of later developments in the suit, such as dismissal of the suit or denial of leave to proceed IFP). So ordered on date in signature block.

  
David R. Herndon  
2012.04.16  
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**CHIEF JUDGE  
UNITED STATES DISTRICT COURT**